Inclusionary Zoning

Ideas You Can Use
From the
Regulatory
Barriers
Clearinghouse
Problem

- Tight government financial resources
- Growing affordable housing need – Record 569
- Government non-monetary alternatives
What To Consider When Designing An Inclusionary Zoning Ordinance?
Possible Issues

- Statutory Authority
- Voluntary or mandatory
- Affordable requirements
- Applicability
- Targeting
- Alternatives
- Compliance period
- Penalties
- Compensating incentives
Statutory Authority

- Assumed by common law
- Home rule power
- Authorized by state
Vermont Statute

- Vermont – Section 4414– Record 990
- Conform to housing element
- Result from a needs analysis
- Include incentives
- Long-term availability
Do you want to...

Encourage developers
or ...

Require them
Voluntary Ordinances

- More easily enacted & implemented – Record 706
- Less likely to face legal challenges
- Winston-Salem – Record 731
- Long Beach – Record 144
Voluntary (cautions)

- Produces few affordable units – Record 486
- Determining the right amount and mix of incentives difficult
Mandatory Ordinances

- Produce more affordable units – Record 846
- Units for a wider range of incomes
- Uniform and predictable
- San Diego – Record 734
Mandatory (cautions)

- Development community resistance opposition
- Increased chance it could be litigated as a “taking” – Record 332
Hybrid Ordinance

- Only if developer seeks government aid
- Arlington County – Record 883
- Santa Fe – Record 701
What percent of the project do you want to be affordable?
Affordable Requirements

- San Diego
  - At least ten percent

- Santa Fe
  - Four different requirements

- Burlington
  - Rental – 15 to 25 percent
  - For Sale – 0 to 25 percent
Do you want the regulations to apply to all development?
Applicability

- **Burlington – Record 503**
  - Five or more dwellings (new construction or sub rehab)
  - Ten or more dwellings (reuse or conversion)

- **San Diego**
  - All residential developments (redevelopment area exceptions)

- **Arlington**
  - Residential and commercial
What target population do you want to serve?
Targeting Beneficiaries

- **Winston Salem**
  - Rental – 60%
  - Homeowner – 80%

- **Boulder – Record 988**
  - Rental – HUD low income limit
  - Homeowner – HUD low income limit plus 10%
Do you want the units to be comparable to other units?
Comparability

- **Burlington**
  - Bedroom mix same
  - Interior amenities and size can be less

- **Boulder**
  - Detached units – 48 percent of other units
  - Attached units – 80 percent of other units
How to meet the requirements?
Meeting the Requirements

- All units must be on site
- Units may be developed elsewhere
- Existing units may be dedicated
- In lieu fees can be paid
- A combination of all of the above
Alternatives

- **Boulder**
  - At least half must be on site
  - Allows off-site units, land, cash, or existing units.

- **San Diego**
  - Allows in lieu fees
  - Amount varies by development size
  - Amount changes annually
More Alternatives

- Santa Fe
  - Allows cash, land, labor, or other in-kind
    - Two percent processing fee

- Burlington
  - Allows off-site units
  - Requirement increases by 25 percent
Do you want a long-term compliance period?
Compliance Periods

- Winston-Salem – 15 years
- Santa Fe – 20 years for rental, 6 months on for-sale housing
- San Diego – Not less than 55 years
- Boulder – Permanent
You want your monitoring and penalties to be simple and easy, don’t you?
Compliance Mechanisms

- **Winston-Salem**
  - Staff determination of sales prices, tenants and income limits

- **Boulder**
  - Restrictive covenants and other written agreements

- **Burlington**
  - Agreements and/or deed restrictions
  - Limited equity appreciation, limited rent increases, exclusive option to purchase, and prohibition on subletting
Penalties

- **Winston-Salem**
  - Revocation of permits or other planning approvals
- **San Diego**
  - Recapture of portion of profit for violations.
- **Burlington**
  - Issuance of tickets
  - Fines from $100 to $250
Making the Developer Whole: Compensating Incentives

- Avoid creating a barrier
- Increase developer support
- Reduce chance for a successful court challenge
What Package of Incentives do You Want to Make Available?
Compensating Incentives

- Bonus densities – Record 863
- Streamlined processing – San Diego
- Exempt increase in value of property from assessment for property tax purposes – Spokane – 783
Additional Compensating Incentives

- Fee waivers or deferrals – Santa Fe
- Reduced parking requirements – Denver
- Variances to Setbacks – Cambridge – 162
- Design Flexibility – Sacramento
What Type of Density Bonus is Most Appropriate?
Amount of Bonus

- **Santa Fe**
  - One for one up to a 50 percent increase

- **Burlington**
  - Up to 25 percent depending on zoning district
Additional Policy Alternatives

- Set or flexible program
- Base bonus on number of units, bedrooms or square footage
- For rehab/new construction base the bonus on the entire number of units in the development
Inclusionary Zoning Conclusion

- Relatively new tool
- Somewhat complicated with many options
- Regulatory Barriers Clearinghouse ready to assist
Inclusionary Zoning

Ideas You Can Use
From the Regulatory Barriers Clearinghouse
How can you benefit?

- Join the listserv
- Visit our site
- Read our newsletter
- Call 800–245–2691, option 4
How can you help others benefit?

- Electronic announcement
- Brochures
- Provide link
- Create your own announcement
- Submit information
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